IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.26671 of 2005
KISHAN YADAV
Versus
STATE OF BIHAR & ORS
---

6 14-7-2008 Heard learned counsel for the petitioner and learned counsel for the State.

This quashing application has been preferred against the order dated 18.12.2004 passed by the learned Additional Sessions Judge, Supaul in Cr.Rev. No. 110/1999 by which he upheld the order of cognizance dated 3.9.1998 passed against the petitioner/informant by learned Chief Judicial Magistrate, Supaul in Tribeniganj PS case no. 89/1997 u/s 182 of the Penal Code.

WEB COPY NOT OFFICIAL

Shortly stated the case is that the informant/petitioner filed first information report on 10.6.1997 before the Officer- in-charge, Tribeniganj police station against the accused/ O. P. no.2 for offence punishable u/ss 447, 448, 323 and 380 of the Penal Code. The police investigated the matter and submitted final form with the label accusation false. The police also submitted prosecution report against the informant for offence u/ss 182 and 211 of the Penal Code. Learned Chief Judicial Magistrate, Supaul by order dated 3.9.1998 took cognizance against the petitioner/informant u/s 182 of the Penal Code. Against the said order dated 3.9.1998 the petitioner preferred Cr.Rev. No. 110/1999 before the learned Sessions Judge, Saharsa and the same was transferred in the file of learned Additional Sessions Judge, Supaul who by order dated 18.12.04 dismissed the revision. Against the said dismissal the petitioner has preferred the present application

for quashing before this court.

Learned counsel submitted that when Tribeniganj PS case no. 89/1997 was under investigation the petitioner being the informant filed protest petition on 11.7.1997. He submitted that on 1.11.97 final report was received in the case along with the prosecution report u/ss 182/211 of the Penal Code. Learned Magistrate accepted the final report by order dated 1.11.1997 and proceeded on the protest. He submitted that by order dated 3.9.1998 learned Magistrate took cognizance u/s 182 of the Penal Code against the petitioner on the basis of prosecution report submitted by the police and transferred the case to another Magistrate for disposal. Learned counsel further submitted that during enquiry few witnesses were examined on behalf of informant and during the pendency of the enquiry the accused and the informant compromised the matter and, therefore, by order dated 22.11.2000 learned Magistrate dismissed the protest/complaint u/s 203 of Cr. P. C. It appears that Cr. Rev. no. 110/1997 was preferred by the petitioner/informant before the learned Sessions Judge in the year 1999. Learned counsel, thus, submitted that learned Chief Judicial Magistrate illegally continued two parallel proceedings in the same matter one against the informant and other against the accused persons.

WEB COPY NOT OFFICIAL

It appears that in spite of knowledge that learned Chief Judicial Magistrate has taken cognizance against the petitioner/informant u/s 182 of the Penal Code he compromised the case with the accused persons. Therefore, the petitioner himself got

the protest/complaint dismissed by the Magistrate. The law has to take its own course. At this stage, this court finds no illegality in the order of cognizance. Learned Additional Sessions Judge has rightly dismissed the revision.

In the aforesaid facts and circumstances, at this stage, no interference is required. This application is, accordingly, dismissed. However, petitioner will be at liberty to raise his points before the court below at the appropriate stage of the case.

BKS/ **(M. Saran, J.)**

WEB COPY NOT OFFICIAL